THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20631 OF 2006

DATED 29th SEPTEMBER, 2006

BETWEEN

M/s.Jeevaka Industries Limited

… Petitioner

and

The Transmission Corporation of A.P., Limited (A.P.Transco) rep. by its Chief Managing Director, Vidyut Soudha, Khairatabad, Hyderabad and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

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ORDER:

The petitioner industry availed 1000 KVA of HT power supply for its sponge iron plant at Nasthipur village in Medak district. It is the case of the petitioner that as per the HT agreement and as requested by the petitioner, respondents released 600 KVA out of contracted maximum demand (CMD) in December, 2005 and also agreed to release 400 KVA in June, 2006. The petitioner industry could not implement its second phase as there was delay in setting up second kiln. Therefore, on 23.05.2006, the petitioner addressed a letter to the second respondent requesting to defer the release of 400 KVA, but the fourth respondent issued the bill for July and August, 2006 demanding minimum charges for 400 KVA demand 80% allegedly without releasing 400 KVA. The petitioner was also addressed a letter by the third respondent informing that with effect from 23.06.2006 billing will be done for 1000 KVA treating 400 KVA as released on that date. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner submits that it is arbitrary on the part of the respondents to demand minimum charges even though the petitioner requested the respondents to defer the release of 400 KVA due to delay in installing second kiln. According to the learned counsel, the said billing is violative of HT agreement as well as condition 5.9.2 of the General Terms and Conditions of Supply (GTCS) formulated by the second respondent with prior approval of A.P.Electricity Regulatory Commission. **Per contra**, learned counsel for respondents Sri G.Raghava Reddy representing standing counsel for A.P.Transco., submits that though the essential infrastructure for supply of 1000 KVA was in place near the petitioner's industry, as requested the release of 400 KVA was deferred till June, 2006 and after expiry of six months period from the date of release of 600 KVA, with effect from 23.06.2006, the petitioner is required to pay the minimum charges for additional 400 KVA. He also submits that the Divisional Engineer informed the third respondent that additional load has been released and therefore, the bill was raised and impugned letter was issued. Secondly, he submits that if the petitioner is disputing the bill raised which includes the minimum

charges for 400 KVA, he can seek proper redressal before the competent authority under condition 14.6 of the GTCS.

Learned counsel placed strong reliance on condition 5.9.2 of GTCS. The same is to the effect that when the distributing company (A.P.Transco.,) is ready to supply and release CMD, the consumer will be informed three months in advance expressing the readiness of the distributing company and if the former consumer fails to avail, necessary billing can be done. *Prima facie*, this Court is not able to appreciate the contention that the impugned action violates condition 5.9.2. A plain reading of the same would show that the same has no application to a case where under the relevant HT agreement, the CMD is 1000 KVA but at the request of the consumer the release of second installment of additional load was deferred. This Court, however, hastens to add that this is again the matter to be gone into based on the actual facts and depend on the question whether or not the additional load was released by the respondents on 23.06.2006. The petitioner is given liberty to make appropriate application/representation before the third respondent, who is competent authority to decide the question of disputed bills. Such application may be filed within a period of ten days from the date of receipt of coy of this order and, as and when the same is made, the third respondent shall decide the question without in any manner influenced by the observations made hereinabove.

The writ petition is accordingly disposed of. No costs.

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(V.V.S.RAO,J)

29.09.2006.
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